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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,780	08/14/2001	Koichi Kawana	450100-03413	9015

20999 7590 03/22/2007  
FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
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VAN HANDEL, MICHAEL P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

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If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/2006 has been entered.

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 12/20/2006. Claims **1-4, 6-12, 14-16** are pending. Claims **1, 10** are amended. Claims **5, 13** are canceled. The examiner hereby withdraws the rejection of claim **10** under 35 U.S.C. § 112, second paragraph in light of the amendment.

### ***Response to Arguments***

1. Applicant's arguments regarding claim **1**, filed 12/20/2006, have been fully considered, but they are not persuasive.
2. Applicant's arguments regarding claim **9**, filed 12/20/2006, have been considered, but are moot in view of the new ground(s) of rejection.

Regarding claim **1**, the applicant argues that Ellis et al. fails to teach or disclose a determination means for determining whether the selection information indicates information

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that has been recorded previously by the apparatus having functions of recording an playing broadcast programs and for designating a point for which to begin playback when the determination means determines the information has been recorded previously as a function of the selection information. The examiner respectfully disagrees. Ellis et al. discloses an interactive television program guide with remote access (see Abstract). A remote program guide access device 24 provides a user with an opportunity to remotely play stored programs or currently broadcasted programs. When the user selects a program from a directory entry, the remote access device program guide issues an appropriate access communication to the interactive television program guide to play back the selection and to transmit it back to the remote access device 24 over remote access link 19 (p. 2, paragraph 15; p. 12, paragraphs 133, 134; & p. 16, paragraphs 168-170). Since Ellis et al. discloses playing back a stored selection in response to a request, the examiner concludes that Ellis et al. inherently designates some point from which to begin playback. That is, playback could not commence without beginning at some point. Thus, the examiner maintains that Ellis et al. meets the limitation of “determining whether the selection information indicates information that has been recorded previously by the apparatus having functions of recording an playing broadcast programs and for designating a point for which to begin playback when the determination means determines the information has been recorded previously as a function of the selection information,” as currently claimed.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-12, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. in view of Gaucher.

Referring to claims 1, 2, 4, and 6, Ellis et al. discloses a broadcast program recording and playing apparatus, comprising:

- program management means for managing a database that stores program information for broadcast programs (p. 4, 5, paragraphs 69, 70);
- transmission means for transmitting the program information stored in the database to an electronic apparatus using wireless communication (p. 5, paragraphs 71, 74; p. 6, paragraph 86; & Figs. 3, 4);
- control means for controlling, recording and playing broadcast programs in accordance with received selection information (p. 2, paragraph 15; p. 11, paragraph 127; & p. 12, paragraphs 133, 134); and
- determination means for determining whether the selection information indicates information that has been recorded previously by the apparatus having functions of recording and playing broadcast programs and for designating a point for which to begin playback when the determination means determines the information has been recorded previously as a function of the selection information (the examiner notes that the user can select a stored program for playback using remote program guide access device 24. The remote program guide access device 24 issues an appropriate access communication to the interactive television program guide to play back the

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selection and to transmit it to remote program guide access device over remote access link 19)(p. 2, paragraph 15; p. 12, paragraphs 133, 134; & p. 16, paragraphs 168-170);

Ellis et al. further discloses that the remote access link 19 is a wireless cellular link or an infrared link (p. 5, paragraph 77; p. 6, paragraph 86; & p. 7, paragraphs 90, 93, 94). Ellis et al. still further discloses that the remote program guide access device 24 is a personal digital assistant (PDA)(p. 7, paragraph 92). Ellis et al. does not disclose a switching means for switching a wireless communication unit between communication using a public circuit based on a spread spectrum communication system and short-distance wireless communication based on the spread spectrum communication system. Gaucher discloses a local wireless network (col. 2, l. 34-36). A cellular phone PDA device controls a VCR to record a particular program through a master computer of the local wireless network if within a specific range. If out of range, the PDA device accesses the master computer and VCR through a cellular modem (col. 3, l. 32-43 & col. 6, l. 34-47, 60-63). The PDA communicates with the master computer and VCR through high power spread spectrum communications (col. 3, l. 60-61; col. 6, l. 1-17; & col. 10, l. 38-46). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the communication between the remote program access device and local interactive television program guide of Ellis et al. to include switching between a cellular network and a local spread spectrum network depending on a remote access device's location, such as that taught by Gaucher in order to provide a more cost-efficient device.

Referring to claims 3 and 11, the combination of Ellis et al. and Gaucher teaches a broadcast program recording and playing apparatus/portable terminal according to claims 2 and

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10, respectively, wherein said portable terminal comprises a private apparatus (Since the remote program access device 24 communicates with a particular user's set-top box (see citations noted with respect to claim 1), the examiner interprets the remote program access device to be a private apparatus).

Referring to claims 8 and 16, the combination of Ellis et al. and Gaucher teaches a broadcast program recording and playing apparatus/portable terminal according to claims 6 and 14, respectively, wherein the short-distance wireless communication is based on an infrared data communication system (Ellis et al. p. 6, paragraph 86 & p. 7, paragraphs 90, 93).

Referring to claims 9, 10, 12, and 14, Ellis et al. discloses a portable terminal for recording and playing broadcast programs, comprising:

- transmission means for transmitting program information stored in a database that stores the program information for broadcast programs to an electronic apparatus using wireless communication (p. 5, paragraphs 71, 74; p. 6, paragraph 86; & Figs. 3, 4);
- display means for displaying the program information obtained using said transmission means (p. 7, paragraph 92; p. 8, paragraph 102; & Fig. 5);
- command transmission means for transmitting a command that controls recording and playing broadcast programs to a server that controls recording and playing performed by the apparatus (p. 2, paragraph 15; p. 6, paragraph 86; p. 11, paragraph 127; & p. 12, paragraphs 133, 134); and
- determination means for determining whether the command indicates information that has been recorded by the apparatus having functions of recording and playing

broadcast programs (the examiner notes that the user can select a stored program for playback using remote program guide access device 24. The remote program guide access device 24 issues an appropriate access communication to the interactive television program guide to play back the selection and to transmit it to remote program guide access device over remote access link 19)(p. 2, paragraph 15; p. 12, paragraphs 133, 134; & p. 16, paragraphs 168-170);

Ellis et al. further discloses that the remote access link 19 is a wireless cellular link or an infrared link (p. 5, paragraph 77; p. 6, paragraph 86; & p. 7, paragraphs 90, 93, 94). Ellis et al. still further discloses that the remote program guide access device 24 is a personal digital assistant (PDA)(p. 7, paragraph 92). Ellis et al. does not disclose a switching means for switching a wireless communication unit between communication using a public circuit based on a spread spectrum communication system and short-distance wireless communication based on the spread spectrum communication system. Gaucher discloses a local wireless network (col. 2, l. 34-36). A cellular phone PDA device controls a VCR to record a particular program through a master computer of the local wireless network if within a specific range. If out of range, the PDA device accesses the master computer and VCR through a cellular modem (col. 3, l. 32-43 & col. 6, l. 34-47, 60-63). The PDA communicates with the master computer and VCR through high power spread spectrum communications (col. 3, l. 60-61; col. 6, l. 1-17; & col. 10, l. 38-46). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the communication between the remote program access device and local interactive television program guide of Ellis et al. to include switching between a cellular



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network and a local spread spectrum network depending on a remote access device's location, such as that taught by Gaucher in order to provide a more cost-efficient device.

3. Claims 7, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. in view of Gaucher and further in view of Clapper.

Referring to claims 7 and 15, the combination of Ellis et al. and Gaucher teaches a broadcast program recording and playing apparatus/portable terminal according to claims 6 and 14, respectively. The combination of Ellis et al. and Gaucher does not teach that the short-distance wireless communication be based on the Bluetooth system. Clapper discloses controlling a set-top box with a remote control unit using a Bluetooth protocol (col. 2, l. 16-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the remote program access device in the combination of Ellis et al. and Gaucher to include communicating with the set-top box over a Bluetooth protocol, such as that taught by Clapper in order to provide a simple and accessible protocol for communicating between devices.

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Margulis discloses an apparatus and method for effectively implementing a wireless television system.

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Maymudes discloses a remote controlled system with computer-based remote control facilitator.

Sawada discloses a home network gateway apparatus and home network device.

Schultheiss discloses a method and systems for providing audio and video telephone communications using a personal computer and television.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

  
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PRIMARY PATENT EXAMINER